

103^D CONGRESS
1ST SESSION

H. R. 1412

To establish a National Shellfish Safety Program.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1993

Mrs. UNSOELD introduced the following bill; which was referred jointly to the
Committees on Merchant Marine and Fisheries and Energy and Commerce

A BILL

To establish a National Shellfish Safety Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Shellfish Safety Act
5 of 1993”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

8 (1) protect against the hazards to human
9 health associated with the consumption of shellfish;
10 and

1 (2) ensure the public confidence in the whole-
2 someness and labeling of shellfish products
3 consumed in the United States.

4 **SEC. 3. NATIONAL SHELLFISH SAFETY PROGRAM.**

5 (a) ESTABLISHMENT.—Not later than 9 months after
6 the date of the enactment of this Act, the Secretary, in
7 consultation with the Secretary of Commerce, other appro-
8 priate Federal agencies and the Conference shall establish
9 a National Shellfish Safety Program to carry out the pur-
10 poses of this Act.

11 (b) GUIDELINES.—The National Shellfish Safety
12 Program established under subsection (a) shall include the
13 issuance of guidelines for—

14 (1) shellfish growers, shellfish harvesters, shell-
15 fish shippers, and their vessels;

16 (2) water quality of shellfish growing and har-
17 vesting areas;

18 (3) monitoring the movement of domestic and
19 imported shellfish in interstate commerce;

20 (4) monitoring and controlling biotoxins and
21 other naturally occurring pathogens and bacterial,
22 viral, and chemical contaminants in shellfish; and

23 (5) such other matters as are necessary to carry
24 out the purposes of this Act.

1 (c) EXISTING GUIDELINES.—The Program shall be
2 consistent with guidelines adopted by the Conference pur-
3 suant to the Memorandum of Understanding between the
4 Conference and the Food and Drug Administration, dated
5 March 14, 1984.

6 (d) REVIEW AND REVISION.—The Secretary, in con-
7 sultation with the Conference, shall periodically review and
8 revise the Program to ensure that the program continues
9 to carry out the purposes of this Act.

10 **SEC. 4. DOMESTIC SHELLFISH SAFETY.**

11 (a) STATE SHELLFISH SAFETY PROGRAMS.—Each
12 shellfish producing State shall submit to the Secretary,
13 within 6 months after the establishment of the Program
14 and annually thereafter—

15 (1) a proposed State shellfish safety program
16 to—

17 (A) manage its shellfish safety program
18 consistent with the Program;

19 (B) monitor and classify shellfish growing
20 and harvest areas in the State consistent with
21 the Program;

22 (C) establish procedures for the closure
23 and reopening of shellfish growing and harvest
24 areas in the State that do not meet the stand-
25 ards of the Program;

1 (D) certify those shellfish shippers in the
2 State that comply with the requirements of the
3 Program; and

4 (E) provide adequate monitoring and en-
5 forcement to ensure that standards and proce-
6 dures established under the Program are met.

7 (b) CERTIFIED SHELLFISH SHIPPERS LIST.—Each
8 State shall submit to the Secretary each month, a list of
9 those shellfish shippers that are certified by the State as
10 meeting the requirements of the Program.

11 (c) CLASSIFIED WATERS LIST.—Each shellfish pro-
12 ducing State shall submit to the Secretary each month,
13 a list of those shellfish harvesting and growing waters that
14 are classified by the State as meeting the requirements
15 of the Program.

16 **SEC. 5. IMPORTED SHELLFISH SAFETY.**

17 (a) MEMORANDUM OF UNDERSTANDING.—After the
18 date of the establishment of the Program, the Secretary
19 may enter into a memorandum of understanding with any
20 foreign country which the Secretary determines has a
21 shellfish safety program that is at least equivalent to the
22 Program.

23 (b) CONTENTS.—A memorandum of understanding
24 entered into by the Secretary under this section shall—

1 (1) provide for such verification activities by the
2 Secretary as the Secretary considers appropriate to
3 determine that the shellfish safety program of the
4 foreign country is at least equivalent to the Pro-
5 gram; and

6 (2) require the foreign country to—

7 (A) manage its shellfish safety program
8 under standards and procedures that are at
9 least equivalent to the Program;

10 (B) certify to the Secretary those shellfish
11 shippers located in the foreign country that
12 comply with the Program; and

13 (C) maintain and make available to the
14 Secretary a list of those shellfish harvesting and
15 growing waters of the foreign country that are
16 classified by the foreign country as meeting re-
17 quirements at least equivalent to the Program.

18 **SEC. 6. PUBLICATION OF LISTS.**

19 The Secretary shall, within 60 days after the estab-
20 lishment of the Program—

21 (1) establish, maintain, publish, and distribute
22 monthly a list of those shellfish shippers that are
23 certified by a State or a foreign country as meeting
24 the requirements of the Program; and

1 (2) establish, maintain, publish, and distribute
2 monthly a list of those shellfish harvesting and
3 growing waters that are classified by States and for-
4 eign countries as meeting the requirements of the
5 Program.

6 **SEC. 7. DELISTING OF CERTIFIED SHIPPERS.**

7 After consultation with the appropriate State or for-
8 eign shellfish control agency and the Conference, the Sec-
9 retary may remove a shellfish shipper from the list under
10 section 6(1) if the Secretary determines that—

11 (1) the shipper is not in compliance with the
12 standards and procedures established under the Pro-
13 gram that are applicable to the shipper; and

14 (2) the State or foreign country which certified
15 that shipper under section 4(b) or 5(b)(2)(A), re-
16 spectively, has not taken appropriate action with re-
17 spect to that noncompliance.

18 **SEC. 8. CERTAIN SHELLFISH DEEMED UNFIT FOR HUMAN**
19 **CONSUMPTION.**

20 Shellfish is deemed to be adulterated for purposes of
21 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301
22 et seq.) if—

23 (1) it is grown or harvested in a foreign country
24 that has not entered into a memorandum of under-
25 standing with the Secretary in accordance with sec-

1 tion 5 within 6 months after the date of the enact-
2 ment of the Program;

3 (2) it is grown or harvested in a State that does
4 not have State shellfish safety program that is ap-
5 proved by the Secretary under section 4;

6 (3) it is harvested from waters that—

7 (A) have not been classified by a State or
8 a foreign country as meeting the requirements
9 of the Program; or

10 (B) are otherwise deemed by the Secretary
11 to be unsuitable for harvesting; or

12 (4) it is shipped by a shellfish shipper not on
13 the list published by the Secretary under section
14 6(1).

15 **SEC. 9. ASSISTANCE FOR STATE SHELLFISH SAFETY PRO-**
16 **GRAMS.**

17 The Secretary may enter into cooperative agreements
18 with States for developing, implementing, and maintaining
19 State shellfish safety programs in accordance with the
20 Program.

21 **SEC. 10. RESTORATION OF SHELLFISH GROWING AND HAR-**
22 **VEST WATERS.**

23 (a) EVALUATION.—The Secretary of Commerce shall,
24 in cooperation with the Administrator of the Environ-
25 mental Protection Agency and the States—

1 (1) establish and maintain a list of those State
2 shellfish growing and harvesting areas where shell-
3 fish harvesting is conditional or prohibited;

4 (2) determine the causes of those conditions
5 and prohibitions; and

6 (3) evaluate the potential for removing those
7 conditions and prohibitions.

8 (b) COOPERATIVE AGREEMENTS.—The Secretary of
9 Commerce may enter into cooperative agreements with
10 States for developing and implementing restoration pro-
11 grams for shellfish growing and harvesting areas listed
12 under subsection (a)(1).

13 **SEC. 11. DEFINITIONS.**

14 For the purpose of this Act, the term—

15 (1) “Conference” means the Interstate Shellfish
16 Sanitation Conference;

17 (2) “Program” means the National Shellfish
18 Safety Program established under section 3;

19 (3) “Secretary” means the Secretary of Health
20 and Human Services;

21 (4) “shellfish”—

22 (A) means any species of molluscan bi-
23 valves;

24 (B) includes oysters, clams, mussels, and
25 scallops (except scallop abductor muscles); and

1 (C) includes any such species that is
2 shucked, in the shell, fresh, frozen, canned,
3 cooked, thermally processed, or breaded;

4 (5) “State” means any of the several States,
5 the District of Columbia, the Commonwealth of
6 Puerto Rico, the Commonwealth of the Northern
7 Mariana Islands, American Samoa, Guam, the Vir-
8 gin Islands, and any other territory of possession of
9 the United States; and

10 (6) “shellfish shipper” means any person that
11 shucks, packs, repacks, ships, or processes (includ-
12 ing cooking, canning, freezing, depurating, breeding,
13 thermal processing, or other handling) shellfish in
14 interstate commerce.

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